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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/296,120	04/21/1999	THOMAS J. REDDIN	03628-0400	7995

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Unacceptable Appeal Brief

The Brief, filed on October 27, 2004, contains claims, namely claims 44, 45 and 66, that were submitted along with the rest of the claims as claims on Appeal (See Appendix). However, **claim 66 was restricted in the last Office Action for disclosing a different invention (restriction issued for more than two months) and claims 44 and 45 have been objected to.**

A restriction requirement and claim objections do not fall under Appealable matter. In other words, the arguments as to whether or not claim 66 discloses a different invention and the objection to claims 44 and 45 is proper do not constitute an **Appealable matter**; they fall rather under **Petitionable matter** (See MPEP 1201, 37 CFR 1.144 and 1.181). Therefore, the Brief is deemed **Defective or Unacceptable**. Applicant is required to withdraw claim 66 and remove therefrom any associated remarks along with the arguments related to claims 44 and 45 before an Examiner's Answer can be issued. A short statutory period (30 days or a month) is herein being given to respond to this correspondence.

Conclusion

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

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Art Unit: 3622

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JDJ

Jean D. Janvier

01/03/04

Patent Examiner

Art Unit 3622

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